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A COMPREHENSIVE ANALYSIS OF *ROE V. WADE* AND ITS LEGALITY  
IN RESPECT TO SCIENTIFIC AND CHRISTIAN PERSPECTIVES

by

Gabriella Morillo

Submitted to the Honors Program Committee

in partial fulfillment

of the requirements for University Honors Scholars

Southeastern University

2017

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2017

## **Dedication**

This thesis is dedicated to the millions of voiceless babies that were never given the chance to grow, live, and contribute to society. So many babies have had their lives stolen by the “choice” their mother made for them. What if your own mother exercised this choice and this “right” while you were in the womb? What if one of your closest friend’s mother exercised this “right” – how may have your life been different? The world could be different in so many ways if each of the aborted fetuses were given an opportunity to grow and strive to be what God intended them to be.

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## Abstract

This thesis is about the Supreme Court case *Roe v. Wade* and how the Court in *Roe* ruled a child as a “potential to life.” The Fifth and Fourteenth Amendments show that there is an expectation of privacy in regards to a woman and her doctor but it is questionable as to whether or not the expectation of privacy can cover the fetus in the womb. The question raised next is whether or not the woman has complete rights to the fetus and whether or not she can decide if the fetus has a right to live or not. Coming to a national consensus of when life begins is vital to establish whether or not *Roe* is justified. Abortion justified by incest or rape will be discussed due to the fact that rape and incest make up an estimated less than one percent of abortions performed in the United States. Although abortion is legal, a stigma still exists around the concept of obtaining an abortion and if society deems it as justified. Abortion is not only a legal discussion - it is a spiritual discussion. Christianity and theologies can impact how people in America view abortion; however, the Word of God speaks evidence and truth that ultimately defines life.

**Keywords:** abortion, women’s rights, *Roe v. Wade*, constitution, law, Christianity, stigma, privacy, due process, science, innovation, life, fetus

## Chapter 1: Introduction

“Once upon a time” - fairytales always start this way and have happy endings. This thesis is not a fairytale and the endings of millions of innocent lives are far too tragic. There once was a time in which a woman would go to jail for aborting a fetus. There once was a time in which the abortionist would face jail time as well. There once was a time in which a fetus was viewed as life. All of this, of course, is in the past. All of this has impacted my worldview. Just like the fairytales I listened to and read as a child, that was in the past and things have changed. What also changed for me is the way I viewed the history of America, women, and life itself. But with all of this being in the past, there is a potential and a hope for a change in the way the world sees life and interprets life today, maybe even a happy ending.

Abortion continues to be a controversial topic. One view makes abortion out to be “the murder of a child.” Others see abortion as the exact definition: the termination of a pregnancy with no harm done (Abortion). With this, the question of whether or not harm is actually done to a potential life is raised. What defines a legal person under the Constitution of the United States? Is what women do with their body behind closed doors actually privacy if the activity behind closed doors regards another life or “potential life”?

The Fifth and Fourteenth Amendments both contain the clause “no person should be deprived of life”. The main debate regarding abortion is whether or not the fetus should be contained under this “right to life”. The Constitution does not define “person” nor does it answer the question of when life begins. Even before the 1973 Supreme Court decision of *Roe v. Wade* existed, abortion has been a controversial Constitutional topic.



The Uniform Abortion Act was revised in 1973, after *Roe v. Wade* was passed, and allows termination of pregnancy up to twenty weeks of pregnancy and thereafter for reasons such as rape, incest, fetal deformity, and the mental or physical health of the woman. The Uniform Abortion Act defines *abortion* as “the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus.” (U.S. Legal, 2016)

As a result of *Roe v. Wade*, first trimester abortions became legal on a federal level, in all situations, on the conclusion that abortion is protected by the Constitution. On the contrary, the Court in the *Roe v. Wade* undoubtedly avoided the question of when life begins on the basis of the “inability to find agreement within the community at large as to when life begins.” (Destro, 2014) The decision in *Roe v. Wade* was made without consensus to when life began and if a woman has a right to an abortion under the right to privacy implied in the United States Constitution. The lack of consensus on the topic regarding the lives of the people is only one issue in the controversy of abortion.

Stigma is defined as “an attribute that is deeply discrediting and changes the bearer from a whole and usual person to a tainted, discounted one.” (Robertson, 2015)

The controversial issue of abortion, although the process is legal and restricted, has stigma associated with it.

The research regarding abortion, as well as the Fifth Amendment, Fourteenth Amendment, and stigma will be discussed in-depth. This thesis will explore the ideas presented in various perspectives, using scientific facts, scientific theories, and Constitutional law to resolve any inconsistencies of reasons behind the many viewpoints on all elements of abortion and even present alternative arguments of various ideas.

A conclusion will be reached in a readable and systematic approach. *Roe v. Wade* will be analyzed thoroughly along with any dissents regarding the case. The right to privacy given by The United States Constitution will be defined and analyzed using the Supreme Court cases: *Doe v. Bolton*, *Griswold v. Connecticut* and *Roe v. Wade*. These Supreme Court cases will be the primary sources to discuss how abortion and the Fourteenth Amendment relate. Next, *Planned Parenthood of Southern Pennsylvania v. Casey* will be analyzed thoroughly along with any of its dissents regarding the case. Partial-Birth Abortion has also been a topic in recent discussions of abortion and it will be thoroughly analyzed using the Supreme Court case, *Gonzales v. Carhart*. The idea of stigma will be examined independently and also in relation to abortion and the law. The defunding of Planned Parenthood is a prominent topic in today's society. The discussion of why Planned Parenthood should be defunded will be expanded upon. Last, as a Christian, it is important to always remember who is in control. Regarding life, the Bible makes it very clear that life is existent in the womb. I will cite various Bible passages from Scripture regarding life and the plans that God set for each and every person He created in His image.

## Chapter 2: Analyzing *Roe v. Wade*

*Roe v. Wade* is viewed as the monumental Supreme Court case to make abortion legal. However, *Doe v. Bolton* was the foundation for the *Roe v. Wade* decision.

In 1970, the Court in *Doe v. Bolton* found that abortion is justifiable in three circumstances: first, continuation of the pregnancy would endanger the life of the pregnant woman or would seriously and permanently injure her health; or second, the fetus would very likely be born with a grave, permanent, and irremediable mental or physical defect; or third, the pregnancy resulted from forcible or statutory rape. (Doe, 410 U.S. at 179)

The Supreme Court case of *Roe v. Wade* is looked upon as a very controversial case. According to Mary Ziegler and other scholars, *Roe v. Wade* serves as the most prominent example of the damage judicial review can do to the larger society (Ziegler, 2014).

Norma McCorvey was a Texas resident. In Texas, it was illegal to get an abortion unless the reason for the pregnancy was caused by incest or rape. At age 21, she became pregnant with her third child. Norma's friends advised her to falsely state that she had been raped so that she may be granted the right to an abortion. This false accusation failed due to the absence of a police report for the crime. To add perspective to the environment of abortion, during that period of history, the police in Texas had shut down all abortion facilities. McCorvey was then referred to two attorneys: Linda Coffee and Sarah Weddington.

Coffee and Weddington filed a lawsuit in the United States District Court for the Northern District of Texas on behalf of Norma McCorvey. This suit was filed under alias

“Jane Roe.” The Dallas County District Attorney, Henry Wade, who was representing the state of Texas, was the defendant of this case. When the lawsuit was filed, McCorvey did not claim the pregnancy was the result of a rape any longer.

The question raised in *Roe v. Wade* was whether or not the Constitution embraced a woman's right to terminate her pregnancy by abortion.

The Supreme Court held that a woman's right to an abortion fell within the right to privacy, recognized in *Griswold v. Connecticut*, which is protected by the Fourteenth Amendment. The decision gave a woman total autonomy over the pregnancy during the first trimester and defined different levels of state interest for the second and third trimesters.

The Fourteenth Amendment specifically grants people the right to life, liberty and property without due process of law. In *Roe v. Wade*, one of the biggest suspicions of the Court ruling lies on the basis of the fact that the Supreme Court avoided answering the question of when life begins due to the “inability to find agreement within the community at large.” (Destro, 1254) However, with increasing medical sophistication and biological knowledge, it is very clear that embryonic development is on the spectrum of human development (Windle, 1940). Texas Court of Criminal Appeals had ruled that the statute but also by the counterpart of due process did not only protect the lives of the unborn in Fifth and Fourteenth Amendments. The Court in Thompson stated, “The State of Texas is committed to preserving the lives of its citizens so that no citizen "shall be deprived of life... except by due course of the law of the land." (Thompson, 493 S. W. 2d 913)

In *Bailey v. State of Missouri*, the Supreme Court concluded, using *stare decisis* principles found in *Rollen v. State*, that an unborn child is a person for purposes of first-

degree murder. In the case *State of Missouri v. Holcomb*, the unborn child that was murdered along with the mother was also held to the standards of a person for purposes of murder.

The essential holding in *Roe v. Wade*, which was reaffirmed by the Supreme Court in *Planned Parenthood of Southern Pennsylvania v. Casey*, has three parts: 1) the recognition of the right of the woman to choose to have an abortion before viability and to obtain it without undue interference from the State. Before viability, the State's interests are not strong enough to support a prohibition of abortion or the imposition of a substantial obstacle to the woman's effective right to elect the procedure. 2) Confirmation of the State's power to restrict abortions after fetal viability. The only exception to this would be the law containing exceptions for pregnancies, which endanger the woman's life or health. 3) The principle that the State has valid interests from the beginning of the pregnancy in protecting the health of the woman and the life of the fetus that may become a child. These principles do not contradict one another; and the Supreme Court adheres to each (*Planned Parenthood of Southern Pennsylvania*, 505 at 846).

The Court in Supreme Court case, *Marbury v. Madison*, ruled that Congress does not have the power to pass laws that override the Constitution, such as by expanding the scope of the Supreme Court's original jurisdiction. Therefore, the Supreme Court has the right to review laws passed by the individual states (*Marbury*, 5 U.S. at 137).

If Florida were to pass a law making all abortions illegal after the first two months of pregnancy, the plaintiffs involved could seek state remedies to have the law declaring abortion unconstitutional, and go to the Federal Courts. Any state law can be subject to Constitutional hearing. A law can violate both State and Federal Constitutions.

In 1986, the state of Missouri enacted legislation that placed a number of restrictions on abortions in their state. The preamble of the statute included the statement, "the life of each human being begins at conception." The statute also included the restrictions of: 1) public employees and public facilities were not to be used in performing or assisting abortions unnecessary to save the mother's life, 2) encouragement and counseling to have abortions was prohibited, and 3) physicians were to perform viability tests upon women who are twenty or more weeks pregnant (Webster, 492 U.S. at 490).

In 1989, this statute was challenged with the case, *Webster v. Reproductive Health Services*, questioning whether or not the restrictions set in the Missouri statute preamble unconstitutionally infringed upon the right to privacy granted in the Fourteenth Amendment or the Equal Protection Clause of the Fourteenth Amendment.

Eventually, the Supreme Court held that none of the challenged provisions of the Missouri legislation were unconstitutional. The Supreme Court stated, "the preamble had not been applied to restrict abortions." With this, no Constitutional question is raised. This follows the ruling of *Roe v. Wade*. *Roe* implies no limitation on the authority of a state to make a value judgment favoring childbirth over abortion. The Supreme Court also held that the Due Process Clause did not require states to enter into the business of abortion, and did not create an affirmative right to governmental aid in the pursuit of constitutional rights. The Supreme Court has recognized that the Due Process Clause generally confer no affirmative right to governmental aid, even where such aid may be necessary to secure life, liberty, or property interests of which the government itself may not deprive the individual (Webster, 492 U.S. at 490, 491). Third, the Supreme Court

found that no case or controversy existed in relation to the counseling provisions of the law, meaning that whether or not a state decides to use public or private facilities and/or staff members of said facilities, a governmental obstacle preventing a woman from terminating her pregnancy does not exist. Finally, the Court upheld the viability testing requirements, arguing that the State's interest in protecting potential life could come into existence before the point of viability. A State's refusal to fund abortions does not violate *Roe v. Wade*. The Court's decisions recognizing a right of privacy also acknowledge that some state regulation in areas protected by that right is appropriate. As noted above, a State may properly assert important interests in safeguarding health, in maintaining medical standards, and in protecting potential life (Roe, 410 U.S. at 113, 154).

With all of this being said, the question I raise to myself is what would happen if the Supreme Court did not rule in favor of Roe? With this, it is to be understood that overturning Roe would mean that individual states would still have the right to pass laws in regards to abortion? And with this fact, it is safe to say that just like the Texas law was challenged and taken to the Supreme Court, any other laws regarding abortion could be as well?

Another interesting fact regarding abortion is how males and females differ on their opinions on abortion. A 2012 Gallup poll found women, 44%, were more likely to identify as “pro-choice” than men who were at 38% (Alcott, 2012). However, in a 2015 Gallup poll, Americans are divided at 50% pro-choice and 44% pro-life. Gallup states that the pro-choice advocates among democrats have increased tremendously since 2001 and that this is the first time since 2008 that the pro-choice population has had a significant lead in America (Gallup, 2015).

It is common to see posters, websites, and even counseling agencies for women who are experiencing grief, depression, or other mental health problems after they have had an abortion. People seem to forget that in order to become pregnant, the traditional way, a man and a woman must come together. The entire other half of the equation must have some say when it comes to abortion. Men experience depression, grief, and other mental health problems when abortion becomes part of their life as well.

It is sad that the Supreme Court has diminished the role of men regarding abortion. It seems to be all about the woman and her body. What about the other individual who helped create the being inside of her womb?

The Court in *Roe* held that, like *Doe v. Bolton*, the father's rights, if any exist in the constitutional context, are not even discussed in the abortion decision. No paternal right has been asserted in either of the cases, and the Texas statutes take no consideration of the father. We are aware that some statutes recognize the father under certain circumstances (*Roe*, 410 U.S. 113 at 166).

A study of 135 men that have had their baby killed by an abortion showed that 48% of the men stated that they openly opposed their partner's choice to have an abortion and 69% reported high stress as a result of the abortion (Rue, Coyle, & Coleman, 2010). With this, it is safe to say that having an abortion with the father opposing the decision can cause relational and sexual problems in the relationship.

Abortion causes destruction to all parties involved, not just to the woman. After every abortion, the next step can either be to accept the fact an abortion has been performed, grieve, or to be in constant denial of the facts and the emotions kept inside.



### Chapter 3: Privacy as Implied by the Fifth and Fourteenth Amendment

Privacy is not directly stated in the United States Constitution. However, privacy can be inferred in the Fourteenth Amendment under “liberty.” When looking at the background of the *Roe v. Wade* case and the *Doe v. Bolton* case, the women involved had already had an abortion – therefore, not being at risk of losing their liberty or not at risk of being deprived of their Federal Rights (Kommers, 1977). The only “potential” rights that were taken away from having these abortions were the right to life – of the unborn. Regarding the issue of whether or not an abortion is private between a physician and the woman, the decision to procure an abortion is private, yet the procedure is not. The State gets involved when an approved physician does the procedure legally at a certified clinic. Therefore, in the view that abortion is not a private procedure, the basis of the Supreme Court’s ruling is to make the private right more aimed on women than the unborn, due to the unborn not being deemed worthy for the rights under the Fourteenth Amendment. Intentions of the woman can be kept private being that *Roe v. Wade* made abortion legal under any circumstance and *Parenthood of Southern Pennsylvania v. Casey* ruled that no obstacle, besides informing a spouse, create an undue burden for the woman to have an abortion (Planned Parenthood of Southern Pennsylvania, 505 U.S. at 833, 838).

The definition of “private matter” is one that is an individual interest in which the government and other third parties can claim no valid or permissible interest (Destro, 1975). Justice Douglas found and wrote, in regards to the decision of *Gonzales v. Carhart*, “privacy to be implicit in the First, Third, Fourth, and Fifth Amendments, ‘specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. Various guarantees create zones

of privacy’." (Pushaw, 2008) Constitutionists believe that the constitution should be read as the way it would be in 1770. Constitutionists hold that the founding fathers implied absolutely no right to privacy (Copley, 2017).

The Court in *Roe* held that “the right of personal privacy includes the abortion decision, but that this right is not unqualified and must be considered against important state interests in regulation.” (*Roe*, 410 U.S. at 154) In regards to the individual states’ interests, the Court stated, “although the results are divided, most of these courts have agreed that the right of privacy, however biased, is broad enough to cover the abortion decision; that the right, nonetheless, is not absolute and is subject to some limitations; and that at some point the state interests as to protection of health, medical standards, and prenatal life, become dominant “(*Roe*, 410 U.S. at 154).

In order for an abortion to be legal, a specialized doctor or state-certified medical practitioner, such as a gynecologist, must perform the abortion in a regulated health facility (Destro, 1975). Justice Blackmun, regarding personal privacy, wrote, “at some point in pregnancy, a state may assert important interests in safeguarding health, in maintaining medical standards, and in protecting potential life.” (*Roe*, 410 U.S. at 154) If the Court continued to use the definition of health (*Roe*, 410 U.S. at 153) after the *Roe* case, the banning of abortion as a whole after viability would be far more important than the entire ruling of *Roe* (Destro, 1975). “In assessing the State’s interest, recognition may be given to the less rigid claim that as long as at least potential life is involved, the State may assert interests beyond the protection of the pregnant woman alone.” (*Roe*, 410 U.S. at 150) In the case *Planned Parenthood of Southern Pennsylvania v. Casey*, the Court ruled that state regulation of abortion under Pennsylvania’s Abortion Control Act

imposed an undue burden under the Due Process clause on a woman's decision to get an abortion (Planned Parenthood of Southern Pennsylvania, 505 U.S. at 833).

The state of Florida grants citizens a specific right to privacy. The statute states, "Every natural person has the right to be left alone and free from governmental intrusion into his private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law." This can be interpreted as having a broader realm of privacy in comparison to the United States Federal Constitution (Blue & Calo, 2015).

## Chapter 4: When Does Life Begin?

Science has evolved since *Roe v. Wade* was passed. However, while the laws regarding abortion have not advanced in the same direction as science has proven. *Roe v. Wade* declared a fetus a “potential to life” in 1973 (Roe, 410 U.S. at 154). Even some scientists believe that life begins at conception, whether they are religious or not. "Development begins at fertilization when a sperm fuses with an ovum to form a zygote; this cell is the beginning of a new human being." (Moore & Persaud, 2003)

After reaching the three-month point in a pregnancy, the States then have individual interests regarding any abortion restrictions. The Court in *Roe* stated, from and after approximately the end of the first trimester of pregnancy, a state may regulate abortion procedures to extent that the regulation reasonably relates to preservation and protection of maternal health (Roe, 410 U.S. 113 at 732).

It is ironic to discover that an encyclopedia describes the creation of a new individual beginning as, "[an individual is] created when the elements of a potent sperm merge with those of a fertile ovum." (Encyclopedia Britannica, 1974) This definition was defined in 1974, just one year after the passing of *Roe v. Wade*.

Many scientists, Christian and non-Christian, believe that life truly does start upon fertilization. For example, author T.W. Sadler quotes, "Development begins with fertilization, the process by which the male gamete, the sperm, and the female gamete, the oocyte, unite to give rise to a zygote." (2006)

Conception does not happen in a “moment.” In 2001, embryologists determined that "although life is a continuous process, fertilization (which, incidentally, is not a 'moment') is a critical landmark because, under ordinary circumstances, a new genetically distinct human

organism is formed when the chromosomes of the male and female pronuclei blend in the oocyte.” (O’Rahilly & Muller, 2001)

Even if some people want to make the claim that life does not begin at the time of conception, it is unquestionable to whether or not there is life within the womb. "In that fraction of a second when the chromosomes form pairs, the sex of the new child will be determined, hereditary characteristics received from each parent will be set, and a new life will have begun.” (Kaluger & Kaluger, 1974)

The government’s own definition attests to the fact that life begins at fertilization. According to the National Institutes of Health, *fertilization* is the process of union of two gametes, the ovum and sperm, whereby the somatic chromosome number is restored and the development of a new individual is initiated.” (Fertilization)

Even basic biology can explain how a fetus is a living being. The seven characteristics of life, as described by the webpage, *The Seven Characteristics of Life*, align with a fetus’ anatomy and bodily functions. The seven characteristics as described by the webpage are: living things contain cells, have organization, produce and absorb energy, grow, adapt to their environment, respond to their environment, and reproduce. All seven characteristics of cells apply to a fetus before exiting the womb – before physical birth. In order to describe the biological factors of life, the developmental stages of the being in the womb must first be made clear.

Conception occurs about two weeks after a woman’s last period begins. By week three, the sperm and egg come together and form a one-celled zygote. The zygote contains 46 chromosomes. The zygote then travels down the fallopian tube and will divide into clusters of cells or a “morula” (Litin, 2003).

Between seven to ten days after fertilization, the embryo has reached the uterus. At this time, the foundations for the spinal cord, the brain, and even the nervous system have been started. The heart begins to beat at day 21 along with muscles being formed and arms, legs, and eyes becoming visible (Litin, 2003).

Brain waves become detectable at week 6 and the brain is controlling the muscles and organs as well. By week 7, the baby is described as “swimming with a natural swimmer’s stroke” in the amniotic fluid (Litin, 2003).

By the third month, the baby has fingerprints; the baby sleeps, and exercises its muscles by moving its neck, arms, and legs. The baby is now actively breathing amniotic fluid to strengthen its respiratory system. The gender can now be visibly and easily determined (Litin, 2003).

To further elaborate upon the seven characteristics of life, the first characteristic described is “living things are composed of cells.” An embryo is a multicellular organism and “in multicellular organisms, specialization increases until some cells do only certain things” (The Seven Characteristics of Life).

The next characteristic of life is that a baby has different levels of organization. There are cells, tissues, organs, and organ systems that make up the entire living organism (The Seven Characteristics of Life). As stated before, by week 6, the organs are being controlled by the baby’s brain.

The third characteristic of life is that living things use energy. The baby is breathing amniotic fluid in order to form and strengthen the respiratory system. This takes energy.

Next, living things must grow. Within the first month, the baby has already undergone cell division causing it to grow every second!

Living things also adapt to their environment and respond to their environment.

Every moment the baby is in the womb, it is adapting to its environment. The baby starts to swallow amniotic fluid in the second month, resulting in hiccups (Litin, 2003). Also, the baby begins to swim due to its liquid environment.

Lastly, living things reproduce. However, reproduction is not essential for life (The Seven Characteristics of Life). Internally, the baby is reproducing cells and still forming. In no way has the baby reached an age to reproduce biologically. However, it does have the potential to reproduce due to its sexual organs being formed within the womb and being visible by month three.

Pro-abortion people generally believe that especially in the first three months there is no living being with emotions or with a soul. However, a being within the first three months shows evidence of being a life form as it demonstrates the seven defining characteristics of life.

The Supreme Court Justices in Roe could not necessarily say that they had the power or authority to deem when life begins. One of the only ways to get pro-choice and/or pro-abortionists on board with the way pro-life advocates think is to undoubtedly establish when life begins (Kemper, 2012).

## Chapter 5: Partial-Birth Abortion

“Partial-Birth Abortion” is commonly known as “intact dilation and extraction.” This is a method of late-term abortion that ends a pregnancy and results in the death and intact removal of a fetus from the uterus (Farlex, 2008). The term “partial-birth abortion” means an abortion in which the person performing the abortion, (a) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and (b) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus (18 U.S.C. 1531).

Statute 117.1201 provided that Congress found the following:

“A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician deliberately and intentionally vaginally delivers a living, unborn child's body until either the entire baby's head is outside the body of the mother, or any part of the baby's trunk past the navel is outside the body of the mother and only the head remains inside the womb, for the purpose of performing an overt act (usually the puncturing of the back of the child's skull and removing the baby's brains) that the person knows will kill the partially delivered infant, performs this act, and then completes delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.” (18 U.S.C. 1531)



The Supreme Court case, *Gonzales v. Carhart*, upheld the Partial-Birth Abortion Ban Act that was put into effect in 2003 by President George W. Bush. The Supreme Court's decision upheld Congress's ban on the process of partial-birth abortion and held that it did not impose an undue burden on the due process right of women to obtain an abortion, "under precedents we here assume to be controlling" such as the Court's prior decisions in *Roe v. Wade* and *Parenthood of Southern Pennsylvania v. Casey*. The Supreme Court in *Gonzales v. Carhart* found that there is "uncertainty in the medical community over whether the barred procedure is ever necessary to preserve a woman's health" and in the past the court "has given state and federal legislatures wide discretion to pass legislation in areas where there is medical and scientific uncertainty." (Gonzales, 550 U.S. at 124)

According to the 18 U.S.C. 1531, the prohibition of intact dilation and evacuation procedure, as outlined in the Partial Birth Abortion Act, applies to pre-viability and post-viability. This is due to common understanding and scientific terminology. This understanding and technology concludes that a fetus is a living organism while within the womb, whether or not it is viable outside of the womb.

The process of Partial-Birth abortion has sometimes been described as disturbing and graphic. A high level overview of the process goes as follows: 1) the abortionist grabs the fetus' legs with forceps, a plier-like tool, 2) the fetus' legs are pulled through the birth canal, 3) the abortionist delivers the entire baby's body, except for the head, 4) the abortionist pushes scissors into the baby's skull. The scissors are opened inside of the skull in order to enlarge the hole in the skull. 5) The scissors are then removed and a

suction catheter is inserted into the hole. The child's brains are sucked out of the skull, causing the skull to collapse. The baby is now deemed dead (Abortion Facts, 1995).

With the procedure of partial-birth abortion, the syntax of the third step interesting. In step 3, the baby is being *delivered* before the scissors are inserted into the skull. The head is the only thing not delivered in this entire process until the baby is dead. Furthermore, the baby at this time would be viable if fully delivered. What would the insertion of the scissors into the skull be considered if the baby was fully delivered? This would most likely be considered a murder.

Dr. Tony Levatino, an obstetrician-gynecologist who formerly held "pro-choice" beliefs, provides a very detailed description of the procedure of partial-birth abortion (Levatino, 2013).

"The first task is to remove the laminaria that had earlier been placed in the cervix to dilate it sufficiently to allow the procedure you are about to perform. With that accomplished, direct your attention to the surgical instruments arranged on a small table to your right. The first instrument you reach for is a 14-French suction catheter. It is clear plastic and about nine inches long. It has a bore through the center approximately  $\frac{3}{4}$  of an inch in diameter. Picture yourself introducing the catheter through the cervix and instructing the circulating nurse to turn on the suction machine, which is connected through clear plastic tubing to the catheter. What you will see is a pale yellow fluid that looks a lot like urine coming through the catheter into a glass bottle on the suction machine. This [is] amniotic fluid surrounded the baby to protect her.

With suction complete, look for your Sopher clamp. This instrument is about thirteen inches long and made of stainless steel. At one end are jaws about 2 ½ inches long and about ¾ of an inch wide with rows of sharp ridges or teeth. This instrument is for grasping and crushing tissue. When it gets hold of something, it does not let go.

A second trimester D&E abortion is a blind procedure. The baby can be in any orientation or position inside the uterus. Picture yourself reaching in with the Sopher clamp and grasping anything you can. At twenty weeks gestation, the uterus is thin and soft so be careful not to perforate or puncture the walls. Once you have grasped something inside, squeeze on the clamp to set the jaws and pull hard – really hard. You feel something let go and out pops a fully formed leg about 4 to 5 inches long. Reach in again and grasp whatever you can. Set the jaw and pull really hard once again and out pops an arm about the same length. Reach in again and again with that clamp and tear out the spine, intestines, heart and lungs. The toughest part of a D&E abortion is extracting the baby's head. The head of a baby that age is about the size of a plum and is now free floating inside the uterine cavity. You can be pretty sure you have hold of it if the Sopher clamp is spread about as far as your fingers will allow. You will know you have it right when you crush down on the clamp and see a pure white gelatinous material issue from the cervix. That was the baby's brains. You can then extract the skull pieces. If you have a really bad day

like I often did, a little face may come out and stare back at you”

(Levatino, 2013).

This can align to the findings of the Supreme Court in *Roe v. Wade* regarding when life begins and whether or not the fetus in the womb is considered a “life” in the Constitution. The vast majority of Americans, including those who favor a right to choose during the early stages of pregnancy, support laws that prohibit partial-birth abortion (Pushaw, 2008). Where is the line between a woman’s choice to her own body and murder drawn when the elimination of a fetus is intentional?

Merriam-Webster defines “double homicide” as “the act of killing two *people* at the same time.” The Unborn Victims of Violence Act of 2004 is a United States law, which recognizes a child in utero as a legal victim if they are injured or killed during the commission of any of over 60 listed Federal Crimes of violence. Some of these crimes include, but are not limited to: vehicular manslaughter, interstate stalking, kidnapping, and bombings (NRLC, 2004).

Section 1841 of the law states, “whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.” The law defines “child in utero” as “a member of the species *Homo sapiens*, at any stage of development, who is carried in the womb.” (Congress.gov)

Opponents of the Unborn Victims of Violence Act have two main concerns: 1) the law would punish the person causing harm to the unborn child while utterly ignoring

the harm to the pregnant woman, and 2) the law would separate the mother from her fetus (NRLC, 2004).

When analyzing how the law is structured, both of these points are misunderstandings. First, the law would only be able to prosecute the alleged offender if the harm done to an unborn child was considered under the 68 enumerated federal laws that protect born citizens. The process with this would go as the prosecutor charging the alleged offender for harm done to the mother first and then harm done to the unborn child under the Unborn Victims of Violence Act (NRLC, 2004).

What differentiates a child in the womb from a child out of the womb? Does the mere connection of an umbilical cord make the child not separate from the woman? On what grounds? The child's life has a direct dependency upon something the mother has. But if this argument is true, then a child who is in need of its mother's milk is not its own person. Can a woman end the life of a breast-feeding infant? Of course not. Does the separation of the mother and the child begin the moment the umbilical cord is cut? No, because if this were the case then abortion would be justifiable all the way up to the moment before the cord is cut.

I have the privilege of interning at the State Attorney's Office in Bartow, Florida. While there, I have heard of and worked on cases regarding women being raped. Unfortunately, I have also been exposed to cases where minors were raped and became pregnant due to the act. There is an obvious emotional scar that puts a blur to the completely objective idea of not allowing abortions at all.

It is eye opening to think that women who give consent to having sex or performing any sexual act have the choice prior to having sex of whether or not birth

control will be used. Women giving consent to any form of sex can choose to risk whether or not they will get pregnant. Rape victims do not have the opportunity to choose whether or not to risk pregnancy. Incest victims do not have the opportunity to choose whether or not to risk pregnancy.

Many people assume that women who were raped or who are victims of incest would choose abortion immediately. In the article, "*Post Fertilization Effects on Oral Contraception and Their Relationship to Informed Consent*," a study found that the majority of rape victims find alternatives to abortions. In fact, 75-85% of pregnant, rape and/or incest victims chose alternatives such as adoption in the lieu of terminating their pregnancy (Larimore & Stanford, 2000).

The argument to justify abortion on strictly statistics of the number of abortions performed due to rape ignores the fact that less than one percent of abortions in America are due to rape and/or incest (American College of Obstetricians and Gynecologists, 1965).

The health and safety of the mother is always an important factor in every pregnancy. Keeping the mother healthy during pregnancy is so vital and people are always active in ensuring the mother is healthy and safe. There is nothing more heartbreaking than a soon-to-be mother or the soon-to-be family to hear that there are complications in the pregnancy and the mother will be risking her health or life at the time should she continue to carry her baby or at the time her child is to be delivered.

There have been stories upon stories of mothers being told very early on in their pregnancy that there will be a complication at the time of delivery and that they should start considering alternatives. Almost everyone is familiar with Tim Tebow's story, if his

mother had followed her doctor's advice, Tim Tebow would not be here today. When you think of all the good he has done through his foundation and his inspiration to publicly show his faith, the world would have been a much darker place without his presence. Nothing is ever certain. Many times, like this one presented, predicted complications in pregnancies result in smooth deliveries.

This is especially interesting how the fetus is put on a lower level of importance than the mother. A fetus or "unborn child" in this case is considered victim to violence inside of the womb. This "violence" can be either just harmful or even deadly. Abortion, on the other hand, gives the fetus no say. The fetus suffers from the procedure from inside of the womb – yet everything is okay for the mother and the mother has no charges against her. The mother of the aborted fetus is intentionally undergoing a procedure to end the "potential life" of an unborn child.

On the other hand, with the Unborn Victims of Violence Act, the offender is a third party. The mother and especially the fetus have zero say in what the offender does to harm or potentially kill the mother and fetus. The Supreme Court held in *Roe* that, "the word 'person', as used in the Fourteenth Amendment, does not include the unborn" (*Roe*, 410 U.S. at 113, 158). The mother, on the other hand, does have a say in the life of the fetus to the extent of prenatal care, et cetera. The Court rejected the claim "that one has an unlimited right to do with one's body as one pleases" (*Roe*, 410 U.S. at 154). With this, Myers explains, "the Court provided neither an alternative definition of the general constitutional right involved nor an account of why it thought privacy was involved" (Myers, 2014).

The essential question raised by this idea is besides the offender being a third party, how do the offender and potential mother differ? To answer this, the process of partial-birth abortion would probably be considered torture and murder if it were given to a “born” person. In this case, the abortionist and the mother would be the offenders. Florida Statute 782.09 has to be one of the most interesting Florida statute regarding homicide and fetal death. This Florida statute declares that murder is the willful killing of an unborn child by injury.

Other questions include: what if the potential mother could care less about the life of the potential child in her womb and heartlessly undergo an abortion just because she wanted to? What if the offender had the same intentions – heartlessly going out and harming or murdering others just because he or she wanted to? Why is there no justice or proof of intent of the mother’s actions?

The woman would not get arrested due to abortion being legal in that state. It is not a crime to abort a fetus – no matter the intention. Believe it or not, people in the world are crazy enough to have that intent.

There will never be a consensus to these sorts of questions without presenting all facts and evidence to the Supreme Court. The lack of consensus is an example of an argument that made the decision of *Roe v. Wade* complicated. There was no consensus as to when life began; therefore, the Supreme Court took the side of the mothers due to the mothers being present to defend their ideals, the fetus themselves were voiceless.

Justice Blackmun noted that during the time of the construction of the Constitution, that “it is [was] thus apparent that at common law, at the time of the adoption of our Constitution, and throughout the major portion of the 19th century,



abortion was viewed with less disfavor than under most American statutes currently in effect.” Phrasing it another way, a woman enjoyed a substantially broader right to terminate a pregnancy than she does in most states today than she did in the past.” (Roe, 410 U.S. at 140) This statement itself somewhat rejects what America was founded on. This quote rejects America’s history and traditions.

The Supreme Court presented a weakness in its explanation of what makes a “person” a person. As mentioned, the Supreme Court did not classify the unborn as people. However, the Court acknowledged that, if the legal personhood of the fetus could be established, the case for a right to abortion “collapses” – “for the fetus’ right to life would then be guaranteed specifically by the Amendment. The Court did not seem to answer this very important question in its normal, structured, and educated manner.” However, Paulsen concludes that “the clear plausibility of personhood suggests at the very least that Roe—on this point as on so many others—is indefensible.” (Paulsen, 2012)

Many other issues are also exhibited in *Roe v. Wade*, besides the lack of consensus on many topics. Richard Myers explains in the article, *Re-reading Roe v. Wade*, “the [Supreme] Court’s acceptance of the doctrine of substantive due process in *Roe*, though, was almost casual. The Court did not even bother to explain why the Due Process Clause had a substantive component.” As mentioned earlier, the Court’s defenses for many things in *Roe v. Wade* were weak mostly due to lack of consensus. The explanation of the “substantive component” was restating the fact that the term “privacy” does not exist in the Constitution. John Ely noted towards the end of the Court in *Roe*,

that the Court “simply announces that the right to privacy ‘is broad enough to encompass a woman’s decision whether or not to terminate her pregnancy’.” (Myers, 2014)

This idea is not consistent with the values of life, liberty, and the pursuit of happiness. Since the decision of when life begins had not been decided legally, the Court has no right to create this idea that life begins at birth. There is no “detriment” imposed on the woman seeking an abortion when the choice of getting an abortion affects others’ lives besides just her own. Even if “specific and direct harm was medically diagnosable in early pregnancy” and the mother were to give birth, no outcome is absolute (Roe, 410 U.S. at 153). A mother could be told that she would experience complications falsely. On the other hand, a mother could be told that she would experience an uncomplicated pregnancy and delivery and still suffer through the pregnancy and experience medical complications during delivery.

Justice White also concurs in Roe that, “maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by childcare. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved. All these are factors the woman and her responsible physician necessarily will consider in consultation.” (Roe, 410 U.S. at 153)

*Roe v. Wade* started a type of trend that now leads to people believing that the courts have 100% control over the verdict or the judge has the only say in the sentencing. This idea leads people to thinking that the entire court system and leadership is unjust.

Scholar William Eskridge states that *Roe* is a prime source of polarization (Ziegler, 2014). Activists opposing pro-choice felt separated when this Court decision was prevalent. This feeling of separation can still exist today. Eskridge's main suggestion to fix this problem is for "the courts to craft decisions that lower the stakes of ordinary politics and facilitate democratic deliberation." (Ziegler, 2014)

The Supreme Court convinced all pro-life Americans, before any consensus was reached, that politics will not help them accomplish their goals of preserving what they think is "life." So many activists were emotionally separated from society because of this idea. With this, Eskridge suggests, "Roe unnecessarily escalated the abortion conflict" (Ziegler, 2014).

Next, the treatment of the unborn is significantly questioned because of *Roe*. Robert Bryn notes, "It is evident that the Court's errors in *Roe v. Wade* are cumulative. From a distorted interpretation of the common law on abortion to a general misunderstanding of the status of the unborn in American law, the Court erected a flimsy house of cards, piling one error upon another." (Byrn, 1973)

During this time, Richard Epstein noted, "recent judicial trends have expanded, not limited," the rights of the unborn (Epstein, 1973).

With this fact, it can be concluded that defending or even acknowledging the rights of the unborn was an effort in the 1970s. It is ironic that the Supreme Court's treatment regarding the unborn is a reflection of how the Supreme Court sees human life. The purpose of *Roe v. Wade* was not to answer of the question of "when life begins." In his article, Myers uses the quote, "the Court necessarily rejected the legislative judgment that fetal life deserves protection" (2014). With the Court's judgment, it is very clear that

the unborn had zero respect given or accounted for that the mother or any state was to respect.

Justice Blackmun believed that the holding of *Roe v. Wade* was consistent with the times of the 1970s. Blackmun noted that “population growth, pollution, poverty, and racial overtones tend to complicate and not to simplify this problem.” Other Supreme Court Justices even thought that making abortion federally legal was due to population control. Justice Ginsburg stated: “frankly, I had thought that at the time *Roe* was decided, there was concern about population growth and particularly growth in populations that we do not want to have too many of” (Myers, 2014).

Even in the Courts, people believed abortion was intended for population control. Imagine what society thought about how the Justices ruled *Roe*. Society, in general, does not have the general knowledge of the law as much as the Justices in the Court did during *Roe*. People in society probably considered abortion as a gateway to controlling their own lives as well. If a pregnancy was unwanted, a person could now freely get an abortion and control the number of people in their household. There is no need to show that one’s health is at stake because of a pregnancy. A woman could now simply go to a clinic and say that she did not want this baby because of financial impact or other reasons and get the child terminated.

Today, twenty-nine states have laws that allow a homicide charge to be brought for the unlawful killing of an “unborn child” or “fetus” in a state crime (NRLC, 2004). Of these, sixteen states provide this protection throughout the period of in utero development, while the other thirteen states provide protection during certain specified stages of development, which varies from state to state. Florida Statute 316.193, as of

2005, defines “driving under the influence” as manslaughter and this statute includes the death of an unborn child. Florida Statute 782.071 states that vehicular homicide as a killing of a human being or killing of a viable fetus by any injury to the mother caused by a motor vehicle by another in a reckless manner likely to cause death or harm to another.

This is a double standard. The law will charge a person with manslaughter even if the killing or harm of a woman and her child was intentional or not. In abortion, every single case is an intentional killing of the child in the womb. How come a woman is not charged with the intentional murder of a child when she is to obtain an abortion? In the cases that involve a woman choosing to obtain an abortion without a doctor stating she has a health risk, or without a police report of rape or incest, the standards of the law should be held to the same level.

## Chapter 6: The Stigma Associated with Abortion

Having an understanding of the word “stigma” is important to the concept of this chapter. What is stigma? Most people associate stigma to words like: shame, disgrace, dishonor, or embarrassment. Merriam-Webster defines stigma as “a mark of shame or discredit” (2013). If one reads further, the plural version of stigma is “stigmata.” The meaning of stigmata, a Greek word, is fascinating and ironic, “bodily marks or pains resembling the wounds of the crucified Jesus” (2013).

There are three primary classes of stigma: physical, defects of character, and tribal (Stigma, 2017). People can feel “stigmatized” due to physical deformities, things such as their weight, height, showing signs of aging or disfigurement. Tribal stigma is when a person is stigmatized due to their association with a particular group that they are a part of (Stigma, 2017). This could be gender, race, culture, or the church you belong to. The third group, which is character, is what applies primarily to this thesis. This class can include things perceived to be a moral flaw like divorce, addiction, mental illness, unemployment, or having an abortion (Stigma, 2017).

Abortion carries a stigma. Stigma can also be defined as an “attribute that is deeply discrediting” and changes the bearer “from a whole and usual person to a tainted, discounted one.” (Robertson, 2015) When discussing abortion, although legalized on a federal level by the Supreme Court decision in *Roe v. Wade* a stigma hovers in the air. A tone is probably set – sad, concerned, or questioning.

Stigma is something set by society. For example, the idea of going out to eat with members of the Honors program at SEU carries a positive stigma. On the other hand, abortion has a lesser-than-positive stigma attached due to the traditional gender roles in

society and the social expectations of pregnancy and being a mother (Robertson, 2015). Stigma affects the world more deeply than one may think.

Paula Abrams, a law professor, believes that the stigma associated with abortion and other sexual rights has reduced due to the passing of *Roe v. Wade*, *Griswold v. Connecticut*, and even the reaffirmation of *Planned Parenthood of Southern Pennsylvania v. Casey*. Abrams questions whether or not the patterns of gender stereotyping overtime have affected stigma and even the laws regarding abortion. “Evidence of stigma is probative of two significant issues, whether gender stereotypes influenced legislative purpose, and the degree of harm imposed by a regulation, for stigma may adversely impact reproductive decisions.” (Abrams, 2015)

When stigma is associated with reproductive choices and abortion, a marginalization occurs. Marginalization leads to more and more stigma and isolation of these individuals and ideas. This isolation can make the individuals who have abortions feel unaccepted and judged. As new legal restrictions come into effect, a stigma will become normalized (Abrams, 2015).

According to Abrams, legal restrictions lead to common patterns of attitudes by the women (and men) who make reproductive choices or have an abortion. First, the different societal attitudes towards the actions of the individuals who make these choices lead to discriminations of societal and moral approval and disapproval. Also, the experiences and perceptions of stigma attached to abortion reveal what the stereotypical theme in relation to gender typing is (Abrams, 2015).

Abortion is associated with a stigma of premarital sex, promiscuity and prostitution. In her article, *The Bad Mother: Stigma, Abortion and Surrogacy*, Abrams

describes the stigma associated with abortions: “Women who supported abortion were berated as frivolous and self-indulgent. Pre-Roe, the procedure was identified with the unsafe reality of “back alley” abortions. The post-Roe political backlash against abortion demonstrates how stigma can be used to discredit legally protected conduct.” (Abrams, 2015)

As mentioned before, Justice White also concurred in *Roe* many things like “maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by childcare. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved. All these are factors the woman and her responsible physician necessarily will consider in consultation.” (Roe, 410 U.S. at 153)

There used to be a negative stigma revolving younger girls getting pregnant. Having self-respect and morals has been transformed in society so teen pregnancy is no longer discouraged, and at times glamorized. Social programs provide day care at high schools, and government funded monetary assistance like food stamps. There are numerous reality television shows like “16 and Pregnant” and “Teen Mom” that sensationalize their situation.

It is disturbing to think that something so innocent that a woman and a man created in private could cause the woman and man a distressful life and future. How dare the consequence of a sexual act be an inconvenience to the parents? How dare the parents



of the potential life in the womb fail to take any responsibility? This is a selfish mindset because the quality of life is subjective. Abortion does not need to be the remedy to these questions if the answer is yes; there are alternatives like adoption.

Sadly, all of the points listed in Justice White's concurrence do not consider any life other than the woman's. It seems as though Justice White was more concerned with the reputation of the woman rather than the potential life of the fetus involved. This concurrence is what rooted the ideas of unwed motherhood always creating a negative stigma. Depriving a potential child of life is not worth any less than any "problem" listed in Justice White's concurrence.

Stigmata. Ironically, Jesus was a crucified innocent man, and fetuses are innocent victims who have their life literally sucked from them, yet it is the mother who feels the negative stigma for an act she initiated.

## **Chapter 7: Defunding Planned Parenthood**

There has been a lot of discussion and debate on whether or not the government should cease funding Planned Parenthood, especially since this topic was on the forefront during the 2016 presidential campaigns and debates featuring Donald Trump and Hillary Clinton.

This is not a new argument; there have been attempts to defund the organization for over 6 years. In 2011, the House voted to defund, but the Senate did not agree after Planned Parenthood went on the offensive with a \$200 million media blitz and a nationwide bus tour. In 2015, they had a very similar response, promoting all their non-abortion services and scaring the public to believe there are no alternative providers should funding be cut. Recently added to their arsenal of defenses is the value of using the remains of aborted fetuses for fetal tissue research (Earll, 2015).

Yes, Planned Parenthood offers several services, which are beneficial to women, however, they are not the only provider and the true argument is that taxpayers are giving money to an organization that performs abortions which is against some taxpayer beliefs.

Planned Parenthood received more than \$528 million dollars in taxpayer funding in 2014. Planned Parenthood claims that abortion makes up only 3% of its services (Terry, 2017). However, this figure is highly disputed. Planned Parenthood performs about 330,000 abortions per year, which equates to approximately 30% of the total number of abortions performed nationwide each year (Lowry, 2015).

Planned Parenthood's most recent report states that from October 1, 2011 to September 30, 2012, the organization performed 327,166 abortions and 2,197 adoption referrals (American Adoptions, 2017). That means that for every adoption referral, they

perform roughly 150 abortions. Abortion is a revenue stream for Planned Parenthood, in 2013, the annual revenue for abortions performed could be well over \$200 million, which is two-thirds of their health center income and one sixth of its total budget for that year (Earll, 2015)! A former Texas facility director, Abby Johnson, stated that the “most lucrative” part of their business is abortions and they earn a lot of money from them (Earll, 2015). A fact that is often overlooked is that Planned Parenthood can use taxpayer funds for non-abortion related expenses like overhead and operational costs so non-taxpayer funds can be shifted to promote and provide abortions.

No matter what argument is made for the percent of abortions or how abortion ranges on the scale of importance or impact, no person should be forced to have their tax money taken away from them to support something that they do not agree with.

Planned Parenthood does offer other services besides abortions. However, there is no sensible or no credible defense for mass murder. David French, a journalist for *National Review*, states that Planned Parenthood has three general categories of defenses: the desperate, the immoral, and the nonsensical (2015).

Another horrific aspect regarding abortion and the aborted fetuses is the selling of the aborted fetus’ body parts. Planned Parenthood claims that the use of the aborted body parts is a “good thing.” The “good thing” that comes from selling and using the aborted body parts is the idea of Planned Parenthood helping advance medical research toward curing diseases like ALS (French, 2015).

Mark Joseph Stern, from *Slate*, had a friend that died of ALS. He is in full support of the act of selling aborted body parts. Stern states, “The graphic images of aborted

fetuses are meant to disgust me, to convince me that abortion is a barbaric act of killing. But I don't see death in these videos. I see hope.” (French, 2015)

I am uneasy about the idea of the term “hope” being used to comfort an act such as this. Where is the hope for the child in the womb? Where are the hopes and dreams of the child that was dismembered and had their body parts being sold around the world for “medical research”?

There seems to be a selfish motive that society has towards abortion. It is human nature to lean towards an idea for the benefit of oneself. Everyone does it every day with countless things. Nonetheless, there is a line to be drawn when the selfish decisions and selfish motives involve the life of others.

Another interesting story that can be compared to the debate on defunding Planned Parenthood is the Hobby Lobby health insurance controversy. Hobby Lobby, a private company, was being sued because it did not want to fund birth control for their employees since it was against the owner's belief system.

The Supreme Court case, *Burwell v. Hobby Lobby*, ruled that corporations controlled by religious families couldn't be required to pay for contraception coverage for their female workers. The decision was a “key characteristic” of the Court: an inclination toward nominally incremental rulings with vast potential for great change (Liptak, 2014).

Justice Ginsberg issued a very drawn dissent by stating, “The court's expansive notion of corporate personhood invites for-profit entities to seek religion-based exemptions from regulations they deem offensive to their faiths.” She also added that the contraception coverage requirement was vital to women's health and reproductive freedom (Liptak, 2014).

Then White House Press Secretary, Josh Earnest, stated that the court's decision "jeopardizes the health of women employed by these companies" and added that "women should make personal health care decisions for themselves, rather than their bosses deciding for them." Liptak noted that Mr. Earnest urged Congress to find ways to make all contraceptives available to the companies affected (Liptak, 2014).

The simple solution to this "health risk for women" that work for the companies affected by the Supreme Court decision is for those women who disagree with the Court's ruling find another job that has belief's similar to the employee so they can get their contraceptive.

Expanding beyond this Supreme Court case, any religious citizen's tax dollars should not be forced to go to an organization that is not supported by said religious person. Planned Parenthood is automatically funded by taxpayers' money. Some taxpayers are okay with this, and some are not. Using the Hobby Lobby precedent, why is anyone required to have their tax money allocated for an organization that goes against their religious beliefs?

The taxpayers that are in full support of Planned Parenthood being government funded can easily fund Planned Parenthood with their own donations. There is nothing wrong with Planned Parenthood accepting donations for their services or to charge a higher amount of money for their services due to other services, not funded by taxpayers that are available around the nation.

The National Association of Free and Charitable Clinics define free or charitable clinics, as "safety-net health care organizations that utilize a volunteer/staff model to provide a range of medical, dental, pharmacy, vision and/or behavioral health services to

economically disadvantaged individuals.” Such clinics are 501(c)(3) tax-exempt organizations, or operate as a program component or affiliate of a 501(c)(3) organization (National Association of Free and Charitable Clinics, 2017).

NAFC also states that even entities that “charge a nominal/sliding fee to patients may still be considered Free or Charitable Clinics provided essential services are delivered regardless of the patient's ability to pay.” Free or charitable clinics restrict eligibility for their services to individuals who are uninsured, underinsured and/or have limited or no access to primary, specialty or prescription health care.

Planned Parenthood’s statement regarding healthcare is as follows: “Here for you, no matter what. For almost 100 years, Planned Parenthood has been providing confidential, expert women’s health care. That’s not changing. While the health care law means that millions of people will be getting insurance for the first time, Planned Parenthood will continue to provide quality health care to women and men— whether or not they have insurance. So you can still come to us for the care you need, when you need it.” (Planned Parenthood, 2017)

The final point that Planned Parenthood likes to use is that if they are defunded, that women will lose their access to healthcare. This statement is not entirely true. Other tax dollars are already distributed and utilized by more than 1,200 health center organizations who have 8,000 locations that are available in all 50 states that currently serve 23 million people (Earll, 2015). Reallocating the Planned Parenthood funds to these organizations to close any gaps that the closure of any Planned Parenthood offices may create or even expand the funding for these centers.

## **Chapter 8: Abortion from a Christian Perspective**

Would aborting a fetus be God's will for the mother's life? Would aborting a fetus be God's will for the father's life? Would being aborted be God's will for the child that He created?

It is true that the Bible cannot be used as legal source of secular law. Laws cannot be derived from the Bible in the United States, our foundation is the United States Constitution.

With this fact, this question arises: what was the foundation of thought, and what were the values of each Founding Father? What did these thoughts and values derive from?

Society has recently come to expect the Constitution to be a live, breathing document. This idea evolved from the fact that society and the norms of society are shifting very quickly. However, when the Constitution was being created, the Founding Fathers intended the Constitution to be a foundation for the people it would be governing, forever.

The named Founding Fathers include John Adams, Benjamin Franklin, Alexander Hamilton, John Jay, Thomas Jefferson, James Madison, and George Washington. The Founding Fathers all came from similar religious backgrounds – some form of Christianity. Most were Protestants; specifically Anglicanism, Presbyterian, and Congregationalism. However, Deism was in widespread existence during the times of the Founding Fathers. Deism focused more on the present human experience rather than religious experiences and mysteries. With this, Deism argued that the validity of

humanity should be rational and in a way of only seeing things in the present and the “now” and in what is seen rather than any form of faith (Holmes 2006).

The reason some people may have these ideas mixed up was due to the Christian ideologies and the Deist ideologies being existent and relevant in the same time period.

The cases of rape and incest are still difficult and controversial to determine if an abortion is justified. As a Christian, I find it to be even more difficult considering the horrendous circumstances. Rape and incest both violate the bodies and rights of women. However, abortion violates the rights of the unborn child by taking the life of an innocent child.

Scripture is very clear when discussing life. In Genesis, man and woman are created in the image of God. God created every individual in their mother’s womb and God ordained each being with a purpose and a plan for their life. The Bible teaches us that children are a blessing. In Psalm 127, children are referenced as a gift from the Lord, and the fruit of the womb is a reward. Again, in Genesis, God says to “be fertile and multiply.” In Luke, there is a reference to God being a God of justice, and he expects us to do justice for one another.

Psalm 139:13-16 is a great example of this: For you created my inmost being; you knit me together in my mother’s womb. I praise you because I am fearfully and wonderfully made; your works are wonderful, I know that full well. My frame was not hidden from you when I was made in the secret place, when I was woven together in the depths of the earth. Your eyes saw my unformed body; all the days ordained for me were written in your book before one of them came to be (New International Version).



As Christians, we are called to obey, listen to, and be open to the Word of God. God formed each being in the womb. Obviously before birth, God ordained purpose, a name, a calling, passions, and so much more into each person before they took their first breath. I am appalled when I hear Christians justify the murder and destruction of a being in the womb that God fearfully and wonderfully created. Jesus reminds us in Matthew 19:18 that we should not commit murder. Abortion is murder.

In Luke 1, the Bible references how the baby John in Elizabeth's womb "leaped" when it heard Mary's voice. This indicates that there was life in the womb.

The justifications I have heard from various individuals at my Christian university mostly involve how the adoption process is an unbearable environment for a child to be born in. However, in the past, there was a lack of control that the mother had with the adoption process. Sometimes, the mother would not even be able to meet the adoptive family. Adoption is portrayed in the media much differently than it really is in reality. Today, if a woman chooses to put her child through adoption, the mother is in control of the adoption process and gets to choose the adoptive family who would raise the child. The chance for a relationship to be maintained between the mother and the child is more possible today than it was 10 years ago (American Adoptions, 2017).

Jeremiah 1:5 states, "Before I formed you in the womb I knew you, before you were born I set you apart; I appointed you as a prophet to the nations." (*New International Version*) This verse is very similar to the Psalm 139 verse; however, the Word states that God set the specific child apart. God specifically selected for the child to do a work in the Kingdom.

Every single person God creates has a set work assigned to him or her to expand the Kingdom of God and to better the Kingdom of God. By aborting creation at any stage, the gifts given to said child, the talents, the wisdom, and everything given to the child by God are destroyed with no chance of the child accomplishing what they were called and gifted to be.

## Chapter 9: Conclusion

Today, abortion is still legal in America, however, there can be restrictions depending on the individual state. Most abortions occur as the result of unintended pregnancies (Jones, 2011). The Constitution does not define “person” nor do the United States lawmakers know what the authors of the Constitution intended when “person” was written as the ones who receive rights under the Constitution. Protecting the right of a pregnant woman shows immediate interest and priority because a pregnant woman is present and visible. If a pregnant woman’s life was in danger and the abortion had to occur to save the woman’s life, a moral decision is to be made. However, if abortion is illegal, the decision is already pre-determined by Federal law. On this note, if an abortion does not need to occur in order to save a woman’s life, the rights of the unborn get put into question. This question indicated that the interest of the state would vary depending on individual state statutes, but even so, protecting the unborn is not “constitutional,” especially when the health of the mother is at risk. In regards to the controversial question of when life begins, the most prominent evidence that life begins before birth is based on biological and scientific innovation. The Supreme Court avoided the discussion of scientific facts regarding when life begins, suggesting the court was able to recognize that there could be a possibility that life does begin before birth and even so, when viability began before birth. In *Roe v. Wade*, the Court used the term “potential life” to describe the “thing” that is destroyed in an abortion. By this, the Supreme Court justices assumed that the destruction of the “potential life” is not the same as destruction of an actual life – demeaning the life before it was actually born.

Therefore, by the Court using the term “potential life” to recognize a fetus, the Court “defined” any unborn rights away by assuming that one’s life must be “meaningful” before the life can be protected by the Constitution. One cannot say that “potential” is not “meaningful”. With the Court’s terms, they are saying that all life before birth is “potential” and all life after birth is “meaningful.” The Court is implying that the life that was fulfilled, or not aborted, is always “meaningful,” and the life that was not fulfilled was never going to be “meaningful.” If all life is meaningful, then all potential to life is just as meaningful. A woman cannot deem a life “unmeaningful.”

Although the Court felt that the unborn could not be protected by the Constitution, a State can only have compelling interest in protecting the unborn life when the unborn reaches viability. In the *State of Missouri v. Holcomb* case, the baby was over the age of viability and was also considered a person. The victim of every abortion is the unborn – something is being destroyed in every abortion, either a person to some or a “potential life” or a mass of cells to others. The Court ruled that the fetus’ right to life would then be specifically stated in the Amendment. *Roe v. Wade* holds that the fetus is not a “person” under the Fourteenth Amendment; it does not mandate the conclusion that the fetus is nothing but a mass of dead cells. Gerald Bradley states that the definition of “person” in the Constitution relates to its context rather than just its usage. Bradley uses the example of the Fugitive Save and Extradition Clauses. These clauses have no application to post-natal beings that the Court so surely ruled are considered “persons” in the Constitution (Alexander, 2008).

The most obvious gap in the legal decisions was the failure to come to an agreement when life begins. Since the 1970’s, there have been huge strides in medical

advancement and technology that can demonstrate that a fetus is more than a cluster of cells and that it is viable. It is time that another challenge is made to see if this can get over turned on the basis that a fetus is a life, which should be afforded an opportunity at life.

Historically, people have taken different religions and molded them for what is convenient for the culture at the time. Anti-abortionists align closely to anti-slavery people.

The decision of *Roe v. Wade* has led to tremendous change over the past 40 years. People have become more open-minded as to what rights are present in the Constitution and what the Supreme Court needs to openly decide. The legalizing of abortion has led to more scholarly research on when life begins, trends during the time of the passing, and what is the value of an unborn "life." It is vital that one must stay objective when viewing abortion, and even with this, abortion is questionable when argued impartially. So many leaders in our government have been pro-life yet have failed to pass laws to uphold their political platform.

Scientific innovation, research, and methods of increasing the probability of life at an earlier time in the development process have evolved at a quick rate. Why is it that the laws governing society, especially regarding life, have not evolved as well? All of these facts demand a verdict.

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